(2024:HHC:15444)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.2687 of 2024

Date of Decision : 21.12.2024

Mohammad Attaullah Usmani

…… Petitioner

Versus

State of Himachal Pradesh

……Respondent

Coram:

The Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting?[1]

For the petitioner : Mr. J.R. Poswal, Advocate.

For the Respondent : Mr. B.N. Sharma, Additional Advocate General.

Bipin Chander Negi, Judge (oral)

Head Constable Sunil Kumar No.108, I/O Police Post, Nankhari, Police Station, Kumarsain, District Shimla, Himachal Pradesh, is present along with record. Status report stands filed. The same is taken on record. Copy, whereof, has been supplied to learned counsel for the petitioner.

2. By way of instant petition, filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner is seeking bail in case FIR No.77 of 2023 dated 07.09.2023, registered at Police

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

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Station, Kumarsain, District Shimla, Himachal Pradesh, under Section 420 of the Indian Penal Code.

3. Brief facts giving rise to the case at hand are that the informant one Sunil Kumar, in the case at hand, had alleged that the bail petitioner had procured apples from the informant. For the produce so procured, part payment had been made. It is in this backdrop that the FIR in the case at hand had been got registered and as a consequence whereof the present petition had been filed.

4. Status report stands filed. The same is taken on record. Copy, whereof, has been supplied to learned counsel for the petitioner.

5. Heard counsel for the parties and perused the status report. *Prima facie*, in the case at hand, the dispute appears to be of a civil nature. As per status report, petitioner has joined investigation in pursuance to the interim protection granted to him vide order dated 29.11.2024 and has cooperated with the Investigating Agency. Investigation, in the case at hand is in progress. From the status report so filed, it is also evident that the petitioner does not have any criminal antecedents.

6. The charges against the petitioner are yet to be proved. Pre trial incarceration is not the rule. Detailed examination of evidence collected is not required to be done at this stage. The petitioner is a permanent resident of Village Phulwaria-01, Kairibari, Ward No.02,

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Post Office, Barauni, Tehsil Teghra, District Begusarai, Bihar and the respondent-State has not expressed any apprehension of the petitioner fleeing from justice. In any case, the petitioner can be put to terms for the purpose of safe, secure and unobstructed completion of trial.

7. Accordingly, present petition is allowed. Interim protection dated 29.11.2024 is made absolute, subject to the following conditions:-

> ***(i) The petitioner shall join the investigation of the case as and when called for by the Investigating Officer in accordance with law and shall cooperate with the Investigating Agency.;***
>
> ***(ii) The petitioner shall not tamper with the evidence or hamper the investigation in any manner whatsoever.;***
>
> ***(iii) The petitioner shall not contact the complainant, threaten or browbeat him or to use any pressure tactics in any manner whatsoever.;***
>
> ***(iv) The petitioner shall not leave India without prior permission of the Court.;***
>
> ***(v) The petitioner shall not make any inducement, threat or promise, directly or indirectly, to the Investigating Officer or any person acquainted with the facts of the case to dissuade him from disclosing such facts to the Court or any Police Officer;***
>
> ***(vi) The petitioner shall attend the trial on every hearing, unless exempted in accordance with law.***
>
> ***(vii) The petitioner shall inform the Station House Officer of the concerned Police Station about his place of residence during bail and trial. Any change in the same shall also be communicated within two weeks thereafter. Petitioner shall furnish furnish details of his Aadhar Card, Telephone Number, E-mail, PAN Card, Bank Account Number, if any.***

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8. In case of violation of any of the terms & conditions of the bail, respondent-State shall be at liberty to move appropriate application for cancellation of the bail. It is made clear that observations made above are only for the purpose of adjudication of instant bail petition and shall not be construed as an opinion on the merits of the matter. Learned trial Court shall decide the matter without being influenced by above observations. With the aforesaid observations, the present petition stands disposed of, so also the pending miscellaneous applications, if any.

Downloaded copy of this judgment is valid for compliance.

(Bipin Chander Negi)
Judge

December 21, 2024 **(KS)**